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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1981

JUN 18 PAGE 3

No. 80-1729

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SUPREME COURT, U.S.

NICHOLAS MAZUR, PETITIONER

v.

COMMONWEALTH OF PENNSYLVANIA, Et al:-
DEPARTMENT OF TRANSPORTATION
CIVIL SERVICE COMMISSION
GOVERNOR'S ADMINISTRATION OFFICE
AND AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES
(AFSCME), RESPONDENTS.

ON PETIITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE THIRD CIRCUIT

BRIEF FOR THE PETITIONER IN OPPOSITION

by Nicholas Mazur

NICHOLAS MAZUR, Petitioner/Pro se
819 N. 21st Street,
Allentown, Pa. 18104
215-433-1587

June 1, 1981

Alexander L. Stevas, Chief Clerk
Office of the Clerk
1 First Street, NE
U.S. Supreme Court
Washington , D.C. 20543

Re: No. 80-1729
NICHOLAS MAZUR, Petitioner
v. Commonwealth of Pennsylvania
Department of Transportation
Pa. Civil Service Commission
Governor's Administrative Office
AND American Federation of State,
County, & municipal Employees Union,
(AFSCME), Respondents.

Dear Mr Stevas:

Enclosed for filing please find original and ten(10) copies of the Petitioner's brief in opposition to the Petition for a Writ of Certiorari submitted by the Respondents in the above captioned matter. Also enclosed is a certificate of service, page 3, and mailing to all parties concerned.

Thanking you , in advance, for your cooperation, I remain.

Very truly yours,

NICHOLAS MAZUR,
Petitioner/Pro se
819 N. 21st Street,
Allentown,Pa. 18104
215-433-1587

cc:Barbara Raup,Esq.
Robert W. Cunliffe, Esq.
Richard Lirschner, Esq.
Gov. R. Thornburgh, Esq.
Ms Sally Mrvos,Chief Clerk(U.S. Ct. of Appeals)

IN THE
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QUESTIONS

1. Does the Court see a conflict of the Respondents citation of Amendemnt XI, as compared to Petitioner's citation of ;- (a). Amendment 5 -"Substantive Due Process" and "Discrimination" (p1162.1163); (b). Amendment 6-"Right to Trial by Jury"(p-1200); (c). Amendment 14 - Section 1,(p-1303; 1310); and Article III, Section 2,(p-684)?

2. Does the Court see an " Invasion of the Petitioner's Constitutional Rights"(Art. III, Section 2, p-684)?

3. Does the Court see a violation of "Substantive Due Process" (Amendment 5)?

4. Does the Court see evidence of " Discrimination"(Amendment 5, p-1162,1163)?

5. What extraordinary excuse has the Respondents given to grant them an extension of time to file their response?

6. Is the Court aware of the devious means by which the Respondents have filed their "Request for Extension of Time" to the Court, without serving said request to the Petitioner?

7. Can a lower court decison remain the same upon "finding of facts" submitted to the higher Court?

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QUESTION(s) (cont'd.)

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8 Has the Court asked the Respondents for "Certification of Service" of all papers sent to the Petitioner?

9. Considering the foregoing questions.... Does the Court see fit to honor the Petitioner's petition for Writ of Certiorari, to reject Respondent's actions to date , and arrive at a decision to grant the Petitioner judicial relief of his grievances.

In The
Supreme Court of the United States
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PARTIES

CERTIFICATE OF SERVICE

I, NICHOLAS MAZUR, Pro se/Petitioner, hereby , certify that true and correct copies of the foregoing "Petition for Writ of Certiorari, in Opposition " has been forwarded , this date by first class mail, pre-paid postage to:

Commonwealth of Pennsylvania, Et al:-
Barbara Raup, Chief Cpunsel- Penna. Civil Service Commission
Robert W. Cunliffe, Dep. to Chief Counsel, PennDot.
302 S. Office Bldg., Harrisburg, Pa. 17120
and
Richard Kirschner, Esq. (AFSCME Repres.)
Kirschner , Walters, & Wittig
1426 Walnut Street,
Phila.,Pa. 19102

June 1- 1981
Patricia M. Zangl
NOTARY PUBLIC
Allentown, Lehigh County, Pa.
My Commission Expires July 3, 1983

Signed by:
Nicholas Mazur
Nicholas Mazur, Petitioner
819 N. 21st Street,
Allentown, Pa. 18104
215-433-1587

Date: June 1, 1981

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SUPREME COURT OF THE UNITED STATES
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Case No. 80-1729

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STATEMENT

This petition involves the Petitioner's supporting data to Rescind/Quash all of the Respondents filing action(s) to date, due to a default , by the Respondents, and the Court, of procedural adherence to the Supreme Court Rule(s):16;24 and 33.

Also, the Petitioner submittance , herein, of supportive data giving the Court jurisdiction to review and grant judicial relief to the Petitioner.

ARGUMENT

The Respondents point out that the issue, presented by the Petitioner, is a narrow one concerning the jurisdictional question, which the District Court addressed.

However , the District Court had not the " Findings of Facts"...Appendix "A" of original brief; to review and consider in its' decision.

The U.S. Court of Appeals-Third Circuit , by confirming the District Court's Order _ without comment , on the "Findings of Facts" , on the consideration of data, therein, is questionable.

Therefore , the Petitioner, supports his Argument(s) as

Argumet(cont'd.)

follows:

I. ARTICLE III, Section 2 (p-684):

Wherein, the litigant claims an actual , or threatened invasion of his Constitutional Rights by the enforcement of some act of authority , usually an act of Congress, or a state legislature, and asks for judicial relief. The clause furnishes the principal textual basis for the implied power of judicial review of the Constitutionality of legislation and other official Acts [2]. Supra pp 669-676; I Stat. 73 & Supra pp 675-676; and Textile Workers Union v. Learoln Mills,355 U.S. 448(1957).

II. Article III, Sec. 2, P-690: Civil Rights Act Jurisdiction:-

Granting the Court to hear suits challenging the deprivation, under color of state law(s), or customs of any right, privilege, or immunity secured by the Constitution as by any act of Congress providing for equal rights [8]. (80 28 U.S.C. Sec 1343(3) ...The cause of Action to which the jurisdiction grant applies is 42 U.S.C. Sec. 1983, making liable and subject to the redress of any person who, acting under color of State law, deprives any person of any rights, privileges, as immunities secured by the Constitution and laws, statutes :-

Argument(s) (cont'd.)

III(cont'd.):-

view". Were Due porcess merely a procedural safeguard it would fail to reach those situations where the deprivation of life, liberty, or propertywas accomplished by legislation, which by operating, in the future, could, given even the faiest possible procedure in application to individuals. nevertheless destroy the enjoyment of all three...Thus the guarantee of due process, though having their roots in Magna Carta's "per legem terrue" and considered as procedural safeguards "Against executive usurpation and tyranny" have in this country " become bulwarks also against arbitrary legislation, which the Respondents have done , in the past, to prevent the Petitiojer his "Rights".

IV. AMENDMENT 14, Section 1, (p-1303):-

All persons born or naturalized in the U.S., and subject to jurisdiction thereof, are citizens of the U.S. and the State wherein they reside. No State shall make or enforce any law, which shall abridge the privilege or immunities of the citizens of the U.S. nor shall any State deprive any person of life, liberty(s), or property , without due process of law, nor deny to any person within its' jurisdiction the equal protection of the laws.

Argument(s) (cont'd.)

II (cont'd.):-Lynch v. Household Finance Corp. 405 U.S. 538(1972); Adickes v. Krass & Co. 398 U.S. 144(1970); Monroe v. Pape, 365 U.S. 167(1961); King v. Smith, 392 U.S. 309,312 n.3 (1968); Rosado v. Wyman, 397 U.S. 397, 405 n.7(1970); McNeese v. Board of Education, 373 U.S. 668(;963); Damico v. California, 339 U.S. 416(1987); Carter v.Stanton, 405 U.S. 669(1972 Askew v. Hargrave, 401 U.S. 476(1971). Wherein, the litigant exhausted his state remedies before bringing action [28].

Osburn v. Bank of U.S., 9 Wheat.(22 U.S.) 738, 822-828(1824); Silver v. Lousiville N.RR . Co.,213 U.S. 175(1909)., Wherein, Court may decide any issue necessary to the disposition of a case, not withstanding that other non=federal questions of fact and law may be involved, that other non-federal questions of fact and law may be involved , therein.

III. AMENDMENT 5- " Substantive Due Process":-

Where, Justice Harlan, in "Pol v. Ullman" ...367 U.S. 497, 540, 541,(1961). Hurtado v. California, 110, U.S. 516,532(1884). Supra ppl140-1141 and infra p-1170, is treated infra pp-1310-1332. _ observed that one view of due-process, ably and insistently argued... sought to, limit the provision to a guarantee of procedural fairness, but continued a broader concept than "that

ARGUMENTS(cont'd.)

V. AMENDMENT 14, P-1310:-

The Fourteenth amendment" operates to extend...the same protection against "arbitrary" State legislation, , as practiced by the Respondents, affecting life, liberty , and property, as is offered by the " Fifth Amendment"...Hibben v. Smith, 191 U.S. 310, 325(1903); Scott v. Sandford, 19 How(60 U.S.) 393,409 (1837);... wherein, the legislature " only in the narrowest sense(which Respondent calls Petitioner's issue), must provide due process for the enforcement of the Law"

VI. Amendment 5, (p-1162-1163):- "DISCRIMIANTION"-

Unlike the "Fourteenth Amendment", the Fifth Amendment, allows the Court to assure "Discrimination" , if gross enough is equivalent to confiscation and subject under the Fifth Amendment to challenge and annulment... Stewart Machine Co. v.Davis, 301 U.S. 548, 585(1937); Also, Currin v. Wallace 306 U.S. 1, 13-14(1939)....Chief Justice Taft observed(AmendV p-1163)... that due process and equal protection clauses are associated... "Due Process" tends to secure equality of law in the sense that it makes a reuired minimum of protection for every one's right of life, liberty, and property, which the Congress or the

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_____)

ARGUMENTS(cont'd.)

VI (cont'd.):- Legislature may not withold .

The Whole system of Law is predicated on the general fundamental principle of equality of the application of the law...Bolling v. Sharpe, ; Also, Brown v. Board of Education; 347 U.S. 483(1954).

VII. Amendment 6, P-1201" Right to Trial by Impartial Jury" Which the Courts have denied the Petitioner this right, to date. ...Wherein the truth of every accusation must be confirmed by the unanimous suffrage of twelve of his equals and neighbors indifferently chosen and superior to all suspicion....In re Oliver 333 U.S. 257, 266-270(1948); Estes v. Texas, 381 U.S. 532,538 -539(1965)., 4 W. Blackstine, Commentaries on the laws of England, T. Cosley, ed.(Chicago); 4th ed.(1899) 349-350.

CONCLUSION

Petitioner repectfully requests that this Court grant this Petitioner the judicial releif under his Petiton for a Writ of Certiorari to the United States Couet of Appeals for the Third Circuit.

Dated: May 31, 1981.

Respectfully submitted:

Nicholas Mazur

Nicholas Mazur, Petitioner/Pro se.